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14 Leiasa Beckham

15 UNITED STATES DISTRICT COURT
16 NORTHERN DISTRICT OF CALIFORNIA

17 UNITED STATES OF AMERICA, *ex rel.*
18 LEIASA BECKHAM, et al.,

19 Plaintiffs,

20 vs.

21 1850 BRYANT LAND LLC, et al.,

22 Defendants.

CASE NO.: 3:21-cv-05742-RS-DMR

NOTICE O MOTION, MOTION OF
WILLIAM K. HANAGAMI AND
BYRON T. BALL TO
CONDITIONALLY WITHDRAW
AS COUNSEL OF RECORD FOR
PLAINTIFF AND RELATOR
LEIASA BECKHAM, AND TO
TAKE OFF-CALENDAR
SCHEDULED DATES IN THIS
ACTION; MEMORANDUM OF
POINTS AND AUTHORITIES
AND DECLARATIONS IN
SUPPORT

DATE: November 14, 2024

TIME: 1:30 p.m.

CRTRM: 3

23 TO LEIASA BECKHAM, ALL PARTIES AND TO THEIR RESPECTIVE ATTORNEYS
24 OF RECORD:

25 YOU AND EACH OF YOU, will please take notice that on November 14, 2024 at 1:30
26 p.m., or as soon thereafter as this matter can be heard in Courtroom 3 of the above entitled
27 Court, located at 17th Floor, 450 Golden Gate Avenue, San Francisco, California, attorneys
28 William K. Hanagami and Byron T. Ball, and their respective law firms (collectively,
Counsel”), will move this Court for its Order permitting them to conditionally withdraw at

1 counsel of record for plaintiff and *qui tam* relator Leiasa Beckham (Relator) as her counsel of
 2 record in this action as of December 2, 2024.

3 This motion is made pursuant to *Local Rule* 11-5, the *Calif. Rules of Professional*
 4 *Conduct*, Rule 1.16, on the grounds that a dispute arose between Relator and Counsel
 5 regarding a court-ordered filing, resulting in Counsel determining that they could no longer
 6 represent Relator in this action consistent with the Rules of this Court, Relator provided
 7 Counsel with her written authorization to settle her claims against defendants under specified
 8 terms as recommended by Counsel, but engaged in conduct that interfered with their ability
 9 to do so, resulting in the breakdown in the attorney-client relationship which prevents Counsel
 10 from effectively representing Relator, and Counsel's good faith belief that they cannot proceed
 11 to represent Relator in accordance with the Rules of this Court. The motion is based upon the
 12 attached Memorandum of Points and Authorities, Declarations of Counsel, and the files and
 13 records filed in this action.

14 NOTICE OF LEIASA BECKHAM: You have the right file a written response or
 15 opposition to this motion by filing a hard copy of such with the Clerk of the Court at the
 16 United States District Court, 450 Golden Gate Avenue, 16th Floor, San Francisco, CA
 17 94102-3426 no later than October 18, 2024. *Local Rule* 7-3(a). At or before the time of filing,
 18 copies of such written response or opposition to this motion should also be served upon
 19 Hanagami and Ball at their addresses or email addresses at the top of the first page of this
 20 motion, as well as upon the attorneys representing the other parties in this action (such
 21 attorneys and their respective email addresses are found in the Certificate of Service attached
 22 to this motion.

23 Respectfully submitted,

24 THE BALL LAW FIRM

25 HANAGAMI LAW, A.P.C.

26 Dated: October 4, 2024

27 By: /s/William K. Hanagami
 28 William K. Hanagami
 Attorneys for Plaintiff and Qui Tam Relator,
 Leiasa Beckham

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Doc. 21) and served it upon the defendants. Defendants filed their respective motions to dismiss the FAC, (Docs. 37, 40, 44), which Relator opposed. (Doc. 50.) On January 9, 2023, the Court issued its Order granting defendants' motion to dismiss the FAC with leave to amend. (Doc. 60.)

On January 30, 2023, Relator filed her second amended complaint. (Doc. 61.) Based on the stipulation of the parties (Doc. 64), on March 9, 2023 the Court issued its Order granting Relator leave to file a Third Amended Complaint (TAC). (Doc. 65.) Relator filed her TAC the next day. (Doc. 66.)

On March 24, 2023, the defendants jointly filed their motion to dismiss the TAC, (Doc. 67), to which Relator filed opposition. (Doc. 70.) On June 30, 2023, the Court issued its Order denying defendants' motion to dismiss the TAC. (Doc. 75.) On July 28, 2023, defendants filed their respective Answers to the TAC. (Docs. 78-80.)

The Court issued its November 16, 2023 initial case management conference, the Court set pending deadlines beginning on January 15, 2025. (Doc. 98.) Further, based on the stipulation of the parties (Doc. 111) on September 13, 2024, Chief Magistrate Donna M. Ryu issued her Order (Doc. 112) granting Relator a three (3) week extension to serve her updated settlement conference brief up to and including October 4, 2024, and defendants until October 11, 2024 to meet and confer and send their joint email response thereto. The purpose of the extension was to permit Relator time to retain replacement counsel. (Doc. 112 at 1:26-27.)

Counsel have not been presented with a Substitution of Attorney from a licensed attorney. (¶6 of Hanagami declaration; ¶5 of Ball declaration.)

III. LEGAL ARGUMENT.

A. Counsel May Not Withdraw from an Action Until Relieved by Order of the Court After Written Notice Has Been Provided, Reasonably in Advance, to the Client and to All Other Parties Who Have Appeared in the Case.

Local Rule 11-5(a).

As shown by the attached Proof of Service By Mail, a copy of this Motion and supporting papers was served by mail upon Relator. (§7 of Hanagami declaration.) Also, courtesy copies were emailed to Relator. (§7 of Hanagami declaration.) Per the attached Certificate of Service, copies were served upon the other parties to this action via the Court's CM/ECF system at or about the time of e-filing.

B. "When Withdrawal by an Attorney from an Action Is Not Accompanied by Simultaneous Appearance of Substitute Counsel or Agreement of the Party to Appear Pro Se, Leave to Withdraw May Be Subject to the Condition That Papers May Continue to Be Served on Counsel for Forwarding Purposes, Unless and until the Client Appears by Other Counsel or Pro Se. When this Condition Is Imposed, Counsel must Notify the Party of this Condition. Any Filed Consent by the Party to Counsel's Withdrawal under These Circumstances must Include Acknowledgment of this Condition."

Local Rule 11-5(b).

Counsel move to withdraw as counsel of record for Beckham because of the breakdown in the attorney-client relationship which prevents them from effectively representing Relator as discussed below, they have not been presented with a Substitution of Attorney by an attorney (*see*, §5 of Hanagami declaration; §5 of Ball declaration), and Beckham cannot appear pro se. *Stoner v. Santa Clarita County Office of Ed.*, 502 F.3d 1116, 1127 (9th Cir. 2007) [Relator in a qui tam action must be represented by an attorney because the action is filed in the name of the Government].

C. Hanagami and Ball Should Be Permitted to Conditionally Withdraw as Counsel of Record For Relator.

"In the Northern District of California, the conduct of counsel is governed by the standards of professional conduct required of members of the State Bar of California,

1 including the Rules of Professional Conduct of the State Bar of California.” *Block v.*
 2 *Gennaro’s LLC*, 2022 WL 395 395315, at *1 (N.D. Cal. Feb. 9, 2022); *Hill Design Group v.*
 3 *Wang*, 2006 WL 3591206, at *4 (N.D. Cal. Dec. 11, 2006) (citing *Elan Transdermal Limited*
 4 *v. Cygnus Therapeutic Sys.*, 809 F. Supp. 1383, 1387 (N.D. Cal.1992)); see also *Nehad v.*
 5 *Mukasey*, 535 F.3d 962, 970 (9th Cir. 2008) (applying California Rules of Professional
 6 Conduct to attorney withdrawal). The decision to permit counsel to withdraw is within the
 7 sound discretion of the trial court. *Russell v. Maman*, 2020 WL 13534011, *1 (N.D. Cal. Mar.
 8 16, 2020).

9 Under the Rules of Professional Conduct of the State Bar of California, attorneys may
 10 withdraw from representing a client if, among other things, (a) “the client by other conduct
 11 renders it unreasonably difficult for the lawyer to carry out the representation effectively,”
 12 and/or (b) “the lawyer believes in good faith, in a proceeding pending before the tribunal, that
 13 the tribunal will find the existence of other good cause for withdrawal.” *Calif. Rules of*
 14 *Professional Conduct*, Rule 1.16(b)(10).

15 Here, a dispute arose between Relator and Hanagami regarding a court-ordered filing,
 16 resulting in Hanagami determining that he could no longer represent Relator in this action
 17 consistent with the Rules of this Court, Relator provided Counsel with her written
 18 authorization to settle her claims against defendants under specified terms as recommended
 19 by Counsel, but engaged in conduct that interfered with their ability to do so, resulting in the
 20 breakdown in the attorney-client relationship which prevents Counsel from effectively
 21 representing Relator, and Counsel’s good faith belief that they cannot proceed to represent
 22 Relator in accordance with the Rules of this Court. (¶4 of Hanagami declaration; ¶4 of Ball
 23 declaration.) Under these conditions, Counsel respectfully request that they be conditionally
 24 permitted to withdraw as Relator’s counsel of record.

25 Because Relator cannot appear pro se, *Stoner v. Santa Clarita County Office of Ed.*, 502
 26 F.3d 1116, 1127 (9th Cir. 2007) [Relator in a qui tam action must be represented by an
 27 attorney because the action is filed in the name of the Government], Counsel request that they
 28 be permitted to withdraw as counsel of record 60 days from the filing of this motion, i.e.,

December 2, 2024, which will give Relator time to retain replacement counsel. Between the time the conditional withdrawal is granted and December 2, 2024, Counsel will forward to Relator all documents served upon them in this action, unless and until Relator appears through replacement counsel during that time. *Local Rule 11-5(b)*.

Counsel understand that defendants may argue that Relator should be afforded no more than 30 days after the filing of this motion for Relator to obtain replacement counsel. However, such a deadline will be perilously close to the time the Court rules on this motion, which counsel believe may be contested by Relator.

D. The Pending Court Deadlines Should Be Taken Off-Calendar.

The pending court deadlines in the Initial Case Management Scheduling Order (Doc. 98) and Judge Ryu's Order (Doc. 112) should be taken off-calendar, and reset at an appropriate time if and after Relator obtains replacement counsel. Counsel understands that defendants do not oppose this request. (¶5 of Hanagami dclaration.)

III. CONCLUSION.

Hanagami and Ball respectfully request the Court issue its Order granting their request to conditionally withdraw as Relator's counsel of record as of December 2, 2024 to give Relator time to retain replacement counsel, and order the deadlines in Initial Case Management Scheduling Order (Doc. 98) and Judge Ryu's Order (Doc. 112) be taken off-calendar. Between the time the conditional withdrawal is granted and December 2, 2024, counsel will forward to Relator all documents served upon them in this action, unless and until Relator appears through replacement counsel during that time. *Local Rule 11-5(b)*.

Respectfully submitted,

THE BALL LAW FIRM
HANAGAMI LAW, A.P.C.

Dated: October 4, 2024

By: /s/William K. Hanagami
William K. Hanagami
Attorneys for Plaintiff and Qui Tam Relator,
Leiasa Beckham